

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Maine Public Utilities Commission)	
Petition for Additional Delegated Authority to)	CC Docket No. 96-98
Implement Number Conservation Measures)	NSD File No. L-99-27
)	
)	

ORDER

Adopted: September 27, 1999

Released: September 28, 1999

By the Commission:

INTRODUCTION

1. This order responds to the March 17, 1999, Petition for Additional Delegated Authority (Petition) filed by the Maine Public Utilities Commission (Maine Commission) to implement several number conservation measures.¹ We herein conditionally grant the Maine Commission the authority to reclaim unused and reserved NXX codes; set numbering allocation standards, including the establishment of a requirement to demonstrate facilities readiness and the setting of fill rates; enforce and audit carrier compliance with existing number utilization reporting requirements; and institute a thousands-block pooling trial. We deny the Maine Commission's request for authority to implement interim unassigned number porting (UNP). In order to grant the Maine Commission's request, we must find that the Maine Commission's proposed number usage optimization plans do not negatively impact consumers' ability to choose from competing telecommunications service providers in the marketplace, and that the plans do not impair the functioning of the public switched telephone network in Maine and nationwide. Although we grant the Maine Commission interim authority to institute many of the optimization measures raised in its Petition, this grant will be superseded by forthcoming decisions in the *Numbering Resource Optimization* proceeding that will establish national guidelines, standards, and procedures for numbering optimization. Thus, this limited grant of delegated authority should not be construed as prejudging any of the issues on which the Commission has sought public comment in the *Numbering Resource Optimization Notice*.

¹ Petition at 1. The Commission recently released a Notice of Proposed Rulemaking, which discusses the adoption of several measures to ensure more efficient utilization of numbering resources. See Number Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999) (*Numbering Resource Optimization Notice*).

BACKGROUND

2. Congress granted the Commission plenary jurisdiction over numbering issues.² Section 251(e) of the Act also allows the Commission to delegate to state commissions all or any portion of its jurisdiction over numbering administration.³ The Commission's regulations generally require that numbering administration: (1) facilitate entry into the telecommunications marketplace by making telecommunications resources available on an efficient and timely basis to telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another.⁴ Further, our regulations specify that, if the Commission delegates any telecommunications numbering administration functions to any state, the states must perform the functions in a manner consistent with these general requirements.⁵

3. On September 28, 1998, the Commission released the *Pennsylvania Numbering Order* delegating additional authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus.⁶ The order further approved a mandatory thousands-block number pooling trial in Illinois.⁷ The order provided that state utility commissions could order voluntary pooling trials,⁸ but in view of the Commission's efforts to develop national pooling standards, we declined to delegate to state commissions the general authority to order mandatory number pooling.⁹ The *Pennsylvania Numbering Order*, however, encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods prior to implementing number conservation plans.¹⁰

² 47 U.S.C. § 251(e).

³ 47 U.S.C. § 251(e)(1).

⁴ 47 C.F.R. § 52.9(a).

⁵ 47 C.F.R. § 52.9(b).

⁶ Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, *Memorandum Opinion and Order and Order on Reconsideration*, CC Docket No. 96-98, 13 FCC Rcd 19009, 19025, ¶ 24 (1998) (*Pennsylvania Numbering Order*).

⁷ *Id.* at 19029-30, ¶ 30.

⁸ *Id.* at 19027-28, ¶¶ 27-28.

⁹ *Id.* at 19027, ¶ 27. Subject to conditions, we permitted states to order the withholding of a certain number of NXX codes within a new area code from assignment and saved for pooling. *Id.*

¹⁰ *Id.* at 19030, ¶ 31.

4. In its Petition, the Maine Commission requests that the Commission grant it the authority to implement number conservation measures, including the authority to establish specific number assignment and utilization requirements, order interim unassigned number porting, and order thousand-block pooling, until the Commission promulgates specific decisions in the Numbering Resource Optimization proceeding.¹¹ The Maine Commission states that, although it is aware that efforts are underway to develop nationwide solutions to address the problem of number exhaust, it must take immediate action to protect consumers from the expense and confusion occasioned by adding new area codes to Maine.¹² The Maine Commission further states that it is in the best position to evaluate the specific circumstances in Maine and establish competitively neutral criteria for the allocation and utilization of numbering resources in Maine.¹³ On April 1, 1999, the Petition was placed on Public Notice for public comment.¹⁴

DISCUSSION

5. We recognize the Maine Commission's concern that exhaust of the 207 area code is occurring despite the existence of a high number of unused numbers in this code.¹⁵ In order to empower the Maine Commission to take steps to make number utilization more efficient, we herein grant significant additional authority to the Maine Commission. In some instances, we are granting the Maine Commission authority that goes beyond the parameters outlined in the *Pennsylvania Numbering Order*, because we find such grant to be appropriate in light of the specific circumstances in Maine.

6. Many of the measures proposed in the Maine Commission's Petition are also examined in a Notice of Proposed Rulemaking that this Commission recently released.¹⁶

¹¹ Petition at 1. The Commission recently released a Notice of Proposed Rulemaking, which discusses the adoption of several measures to ensure more efficient utilization of numbering resources. *See Numbering Resource Optimization Notice, supra* note 1.

¹² Petition at 4.

¹³ Petition at 4.

¹⁴ Common Carrier Bureau Seeks Comment on the Maine Public Utilities Commission's Petition for Additional Authority to Implement Number Conservation Measures, *Public Notice*, DA 99-638 (rel. April 1, 1999). *See also* Common Carrier Bureau Seeks Comment on State Utility Commission Requests for Additional Authority to Implement Telecommunications Numbering Conservation Measures, *Public Notice*, DA 99-1198 (rel. June 22, 1999).

¹⁵ Petition at 2.

¹⁶ *See Numbering Resource Optimization Notice.*

Although we grant the Maine Commission interim authority to institute many of the optimization measures in the Petition, we do so subject to the caveat that this grant will be superseded by forthcoming decisions in the *Numbering Resource Optimization* proceeding that will establish national guidelines, standards, and procedures for numbering optimization. This limited grant of delegated authority should not be construed as a prejudgment of any of the measures on which the Commission has sought public comment in the *Numbering Resource Optimization Notice*.

7. Congress granted this Commission exclusive jurisdiction over those portions of the North American Numbering Plan (NANP) that relate to the United States, and directed that the Commission administer the NANP in a manner that assures that numbering resources are available on an equitable basis.¹⁷ The Commission was also granted the authority to delegate this jurisdiction to state utility commissions. Thus, while we grant authority below to the Maine Commission to engage in various matters related to administration of the NANP in Maine, we require the Maine Commission to abide by the same general requirements that this Commission has imposed on the numbering administrator. Thus, the Maine Commission, to the extent it acts under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available in an efficient and timely basis; that whatever policies the Maine Commission institutes with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the Maine Commission not unduly favor one telecommunications technology over another.¹⁸

8. The grants of authority herein are not intended to allow the Maine Commission to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief.¹⁹ While we are giving the Maine Commission tools that may prolong the life of the existing area code, the Maine Commission continues to bear the obligation of implementing area code relief when necessary, and we expect the Maine Commission to fulfill this obligation in a timely manner. Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources. For consumers to benefit from the competition envisioned by the Telecommunications Act of 1996, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible.

9. Several commenting parties urged the Commission to grant the Maine Commission's Petition in its entirety on the basis that state utility commissions require greater authority to implement number conservation measures in order to rectify the causes of area code

¹⁷ 47 U.S.C. § 251(e)(1).

¹⁸ 47 C.F.R. § 52.9(a). *See also* 47 U.S.C. § 251(e)(1).

¹⁹ *Pennsylvania Numbering Order* at 19027, ¶ 26.

exhaust.²⁰ Other parties suggested that we deny the Petition on the basis that number conservation measures must be developed at the national level, and that the Petition does not provide an adequate basis on which to grant the requested delegations of authority.²¹

10. *Setting NXX code allocation standards.* The Maine Commission seeks additional authority to establish several needs-based criteria for the assignment of codes to carriers. Specifically, Maine seeks authority to require that a carrier demonstrate it has, or will have within six months, the necessary facilities to serve a particular rate center before it is assigned an NXX code for use within that rate center. The Maine Commission also seeks authority to require that a carrier utilize other code conservation measures, such as unassigned number porting (UNP), to provide service in rate centers where the carrier will serve minimal numbers of customers. In addition, the Maine Commission seeks to establish fill rates that must be met before a carrier may acquire an additional code in a rate center where it already has a code (a "growth code").²² The Maine Commission proposes to implement such a provision by establishing a general fill rate and then permitting individual carriers to obtain a waiver of the standard based upon showing of actual need.²³

11. We hereby delegate authority to the Maine Commission to require a carrier to demonstrate that it will have the necessary facilities to serve a specific rate center within six months of assignment of an NXX code for use in that rate center. We believe that such a requirement would be consistent with the provision in the CO Code Assignment Guidelines requiring carriers to place NXX codes in service within six months of assignment of their effective dates, and is an appropriate method of ensuring that carriers not obtain numbering resources well in advance of when they will actually be able to provide service.²⁴ We note that after the Maine Commission asked new entrants to request only those codes they reasonably anticipated using within the next six months, new entrants voluntarily reduced their anticipated

²⁰ See Connecticut Commission comments; Massachusetts Commission comments; Pennsylvania Office of Consumer Advocate and the Maine Public Advocate Office joint comments; New Hampshire Commission comments.

²¹ CTIA comments; US West comments; Nextel comments; PCIA comments.

²² A "growth" code is an additional NXX code requested for an established switching entity, point of interconnection, or rate center when the telephone numbers available for assignment in previously assigned NXX codes will not meet expected demand. CO Code Assignment Guidelines at § 13.0. An "initial" code is the first NXX code assigned to the carrier at a new switching entity, point of interconnection or unique rate center, and the administrator is to assign initial codes to the extent required to originate or terminate traffic. *Id.*

²³ Maine Commission Reply at 7.

²⁴ See Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008 (rev. Apr. 26, 1999) at § 6.3.3 (CO Code Guidelines). This document is available at <<http://www.atis.org/atis/clc/incdocs.htm>>.

code requests by approximately 75 codes.²⁵ Moreover, due to the fact that only facilities-based carriers require numbers to provide service, this additional authority will help the Maine Commission ensure that non-facilities-based resellers do not obtain unnecessary NXX codes.²⁶

12. Subject to the conditions set forth below, we also delegate authority to the Maine Commission to require NXX code applicants to demonstrate that they have met certain fill rates in previously assigned NXX codes prior to obtaining additional numbering resources, even if the NPA is not in jeopardy.²⁷ We agree with the Maine Commission that extension of this authority to a non-jeopardy NPA will encourage more efficient use of NXX codes and thereby defer declaration of jeopardy in the NPA.²⁸ We are, however, very concerned about the potential competitive impact of imposing a fill-rate regime on carriers' ability to serve customers. For example, AT&T points out that establishing fill rates or utilization thresholds may interfere with a carrier's ability to meet customers' demands for new services.²⁹ This is largely due to the time it takes to activate an NXX code in nationwide databases. If a carrier has a relatively high rate of customer demand for service, it may reach the requisite fill rate, but be unable to get more numbering resources in time to meet customer demand.³⁰ Furthermore, a strict fill-rate regime may not accommodate customers' requests for specific numbers or specific ranges of numbers. These concerns and others about the use of fill rates as opposed to the industry's current "months-to-exhaust" model are set forth in the *Numbering Resource Optimization Notice*.³¹ In this light, although we do not wish to dictate the parameters of the fill-rate regime, we urge the Maine Commission to allow for some flexibility in carriers meeting whatever fill rates the Maine Commission sets, in that it takes an appreciable amount of time between a carrier requesting an NXX code and activating the code.³² Some carriers may be assigning customers at such a rate that they may run out of numbers between the time it takes to meet a fill rate and be assigned

²⁵ Maine Commission Reply at 3.

²⁶ Petition at 4.

²⁷ The *Pennsylvania Numbering Order* authorized states to consider imposing usage thresholds on carriers before obtaining NXX codes within the same rate center in jeopardy situations subject to state-ordered NXX code rationing plans. *Pennsylvania Numbering Order* at 19025-26, ¶ 24.

²⁸ See Petition at 5; Maine Commission Reply at 8.

²⁹ AT&T comments at 10.

³⁰ See AT&T comments at 10; MCI WorldCom comments at 5-6.

³¹ *Numbering Optimization Notice* at ¶¶ 62-68.

³² The CO Code Assignment Guidelines state that NXX code applicants should request "effective dates" for code activation at least 66 days after the receipt of a code request to allow 45 days for activation plus 21 days for code request processing. CO Code Guidelines at § 6.12.

more numbering resources.³³ Our primary concern, therefore, is that customers have a choice of carriers from whom they can purchase service upon request.

13. We are also concerned about the impact of multiple, disparate number conservation regimes on the availability of telecommunications services and the industry's ability to forecast and plan properly for exhaust of the NANP.³⁴ Therefore, during its implementation of this authority, we ask that the Maine Commission consult and coordinate with other state commissions that may obtain authority to impose fill rates.³⁵ We encourage the Maine Commission to establish fill rates that are not inconsistent with those imposed by other states.

14. Despite these concerns, we recognize the need to address the numbering situation in Maine. In setting certain guidelines for the Maine Commission to follow, we hope to allay some of the concerns about possible competitive impacts, while giving the Maine Commission the power to gain information regarding the assignment of numbers to end users.

15. First, the Maine Commission may only consider a carrier's fill rate in relation to growth codes. We do not believe that a carrier's ability to establish a service "footprint" should be restricted; that is, a carrier ought to be able to obtain initial numbering resources in rate centers where the carrier is authorized to offer service and plans to do so within the six-month NXX activation time frame established by the CO Code Assignment Guidelines. We wish to avoid imposing barriers to competitive entry into the telecommunications marketplace to service providers with a legitimate demand for service in Maine. A carrier that is newly providing service may not be able to achieve a prescribed fill rate in an NXX code for quite some time. With respect to fill rates, however, we conclude that the importance of bringing choice to consumers outweighs whatever numbering inefficiencies experienced by new entrants.

16. Second, as stated in the *Pennsylvania Numbering Order*, we are concerned that granting this request and other, similar requests will overburden the North American Numbering Plan Administrator (NANPA), which based its bid for providing number administration services

³³ See, e.g., AT&T comments at 10 n.29.

³⁴ See *Pennsylvania Numbering Order* at 19019-20, ¶ 15.

³⁵ See Common Carrier Bureau Seeks Comment on State Utility Commission Requests for Additional Authority To Implement Telecommunications Numbering Conservation Measures, *Public Notice*, NSD File Nos. L-98-136, L-99-19, L-99-21, L-99-27, L-99-33, DA 99-1198 (rel. June 22, 1999) (California, Florida, Maine, Massachusetts, New York); Common Carrier Bureau Seeks Comment on the Texas Public Utility Commission Petition for Delegation of Additional Authority to Implement Number Conservation Measures, *Public Notice*, NSD File No. L-99-55, DA 99-1380, (rel. July 14, 1999); Common Carrier Bureau Seeks Comment on the Connecticut Department of Public Utility Control's Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures, *Public Notice*, NSD File No. L-99-62, DA 99-1555 (rel Aug. 5, 1999).

on industry guidelines that are applicable nationwide.³⁶ Therefore, to avoid imposing an additional burden on the NANPA, to the extent that the Maine Commission chooses to implement a fill-rate requirement, we delegate authority to the Maine Commission to ascertain carrier compliance with the fill-rate requirement. To avoid delay in NXX code application processing, we direct the Maine Commission to conduct its review of carrier compliance with any required fill rate within the ten-day time frame established by the CO Code Assignment Guidelines as the time in which NANPA must respond to an applicant's NXX code request. Of course, a carrier's failure to provide the Maine Commission with adequate evidence of compliance with the fill-rate requirement upon request will toll the running of this 10-day timeframe. Because the Maine Commission will require notification of the NANPA's receipt of a code request in order to verify the carrier's facilities readiness as well as monitor fill rates, we also grant the Maine Commission additional authority to ask the NANPA to notify the Maine Commission of all code requests.³⁷ Further, while we delegate to the Maine Commission the authority to request and evaluate information provided by carriers to demonstrate compliance with the fill rate, we request that the Maine Commission not release such information to any entity other than the NANPA, this Commission, or the Common Carrier Bureau.

17. We decline at this time to grant the Maine Commission additional authority to require that a carrier utilize other code conservation measures, such as UNP, to provide service in rate centers where the carrier will serve minimal numbers of customers. In addition, as discussed below in paragraphs 24 and 25, we decline at this time to grant Maine additional authority to order carriers to provide unassigned number porting as a means for reallocating numbers between carriers because UNP is still at too early a stage of development and the potential impact of UNP on emergency services systems, carriers' switching systems, and carrier's ability to forecast their numbering needs. We note that Maine does not specify alternative code conservation strategies it would impose on carriers that serve few customers in a rate center.³⁸ Moreover, the Maine Commission has not provided us with a more detailed proposal as to how it would ensure that the exercise of this authority would not negatively affect the ability of consumers to obtain the telecommunications services of their choice from the service provider of their choice.³⁹ We emphasize, however, that our determination not to grant the Maine Commission authority to order carriers to use these types of code conservation measures does not preclude carriers from

³⁶ See *Pennsylvania Numbering Order* at 19031-32, ¶ 33 (finding that if every state commission implemented its own NXX code administration measures, the NANPA would have the potentially impossible task of performing its code administration and NPA relief planning functions in a manner consistent with industry guidelines and fifty-one different state regimes).

³⁷ In its Petition, the Maine Commission states that the NANPA has recently agreed to notify the Maine Commission of all code requests. Petition at 4 n.3.

³⁸ One such alternative may be some form of code sharing.

³⁹ See ALTS comments at 3.

voluntarily engaging in unassigned number porting or code sharing where mutually agreeable and where there are no public safety or network reliability concerns. As a matter of fact, we encourage the carriers to do so. Furthermore, we also encourage the Maine Commission and the carriers to work together to identify and promote other innovative measures as well that would encourage the conservation of NXX codes.

18. *Reclamation of unused and reserved NXX codes.* The Maine Commission also seeks authority to reclaim codes acquired in violation of the Central Office Code Assignment Guidelines, other applicable rules, and relevant state provisions. Furthermore, the Maine Commission seeks to extend reclamation authority to test codes, codes that have not been put into service within time frames established by the CO Code Assignment Guidelines and Maine Commission rules, and codes assigned to carriers that have failed to establish facilities within the time frame they certified they would become facilities-based carriers. Subject to the conditions set forth in this section, we grant the Maine Commission's request for additional authority to reclaim NXX codes under specified circumstances.

19. The CO Code Assignment Guidelines provide that carriers shall activate NXXs within six months of the "initially published effective date."⁴⁰ We are, however, concerned that enforcement of the guidelines has been lax.⁴¹ Reclaiming NXX codes that are not in use may serve to prolong the life of an area code, because these codes are added to the total inventory of assignable NXX codes in the area code. Therefore, we grant authority to the Maine Commission to investigate whether codeholders have activated NXXs assigned to them within the time frames specified in the CO Code Assignment Guidelines, and to direct the NANPA to reclaim NXXs that the Maine Commission determines have not been activated in a timely manner. We also extend this reclamation authority to instances where, contrary to the CO Code Assignment Guidelines and Maine's rules, a carrier obtaining NXX codes has not been certified as a provider of local exchange service or has not established facilities within the certified time frame. This authority necessarily implies that the Maine Commission may request proof from all carriers that NXX codes have been "placed in service" according to the CO Code Assignment Guidelines as well as proof of certification in the specified service area and proof that facilities have been established within the specified time frame. We further direct the NANPA to abide by the Maine Commission's determination to reclaim an NXX code if the Maine Commission is satisfied that the codeholder has not activated the code within the time specified by the CO Code Assignment Guidelines or has obtained numbering resources without being certified to provide local exchange service.

20. We note that the CO Code Assignment Guidelines dictate substantial procedural

⁴⁰ CO Code Assignment Guidelines at § 6.3.3.

⁴¹ Petition at 3-4; *See also* USTA comments at 5.

hurdles prior to reclamation of an unused NXX, in part to afford the codeholder an opportunity to explain circumstances that may have led to a delay in code activation.⁴² New entrants, in particular, may suffer unexpected delays or scheduling setbacks beyond their control which may lead to code activation delays. We clarify that the Maine Commission need not follow the reclamation procedures set forth in the CO Code Assignment Guidelines relating to referring the issue to the Industry Numbering Committee (INC) as long as the Maine Commission accords the codeholders an opportunity to explain extenuating circumstances, if any, behind the unactivated NXX codes.

21. We also grant the Maine Commission authority to investigate whether test codes may be reclaimed by the NANPA for potential activation by other carriers, without causing disruption to the particular carrier's operations. If, after such an investigation, the Maine Commission is satisfied that the carrier's use of these codes for testing purposes is not warranted, the Maine Commission may direct the NANPA to reclaim these codes for assignment to other carriers.

22. *Enforcement of number utilization reporting requirements.* The Maine Commission seeks to establish mandatory number utilization reporting requirements. Although the CO Code Assignment Guidelines require carriers to complete and submit the Central Office Code Utilization Survey (COCUS) to enable the NANPA to obtain accurate number utilization and forecast information,⁴³ the NANPA reports only a 62% compliance rate.⁴⁴ The Maine Commission, however, reports that, pursuant to an order it issued requiring all Maine NXX code holders to participate in the 1999 COCUS, it obtained a 100 percent compliance rate, compared to the 25 percent compliance rate for the previous year.⁴⁵ We find that the Maine Commission's participation in the number utilization reporting process by making the submission of the COCUS mandatory will assist the NANPA and the Maine Commission in planning and authorizing appropriate area code relief.⁴⁶ Therefore, we grant the Maine Commission additional authority to require carriers in Maine to submit a completed COCUS to the NANPA. Moreover, we grant the Maine Commission the authority to direct the NANPA to suspend the assignment of

⁴² For example, the CO Code Assignment Guidelines dictate that the CO Code Administrator must refer to the INC for resolution any matter relating to an NXX code that has not been activated within the time frame specified in the guidelines. CO Code Assignment Guidelines at § 8.2.2. The INC must then investigate the referral and attempt to resolve the referral. CO Code Assignment Guidelines at § 8.3. Absent consensus resolution, the matter is then referred to the "appropriate regulatory body" for resolution. *Id.*

⁴³ CO Code Assignment Guidelines at §§ 6.4, 6.6, and 9.1.

⁴⁴ See NANC Meeting Minutes, May 25-26, 1999.

⁴⁵ Maine Commission Reply at 2.

⁴⁶ See ALTS comments at 4; Massachusetts Commission comments at 4.

NXX codes to a carrier if that carrier has not complied with the Maine Commission's directive to complete the COCUS.

23. *Auditing of carrier utilization reports.* Furthermore, the Maine Commission seeks authority to establish procedures to audit carrier utilization reports. In support of its request for auditing authority, the Maine Commission discusses its discovery of several incidences of carriers requesting and activating additional codes for rate centers in which they already had sufficient numbering resources or were not fully-authorized to provide service.⁴⁷ We grant the Maine Commission authority to audit carriers' number utilization reporting. We find that this authority will enable the Maine Commission to verify carrier compliance with the CO Code Assignment Guidelines and with the fill rates it seeks to establish.⁴⁸ We reiterate, however, that because this is a topic of the *Numbering Resource Optimization Notice*, this grant of authority is limited in duration until such time as this Commission enacts rules or policies relating to auditing carriers' use of numbering resources.⁴⁹

24. *Interim Unassigned Number Porting.* The Maine Commission requests authority to implement interim UNP as an additional tool to conserve numbering resources until thousand block and individual number pooling is implemented. As described in the 1998 NANC Numbering Resource Optimization Report (*NANC Report*), UNP is a telephone number optimization measure where available individual telephone numbers in one service provider's inventory are ported, using LNP, to another service provider under the direction of a neutral third party coordinator for assignment by the second service provider to a specific customer.⁵⁰ The NANC Report focuses on the use of UNP in extreme cases of number shortages, where individual service providers are otherwise completely unable to obtain telephone number to serve customers.⁵¹ We find that the Maine Commission has not provided us with sufficient information relating to the details of a proposed use of UNP.

25. We agree with most of the industry commenters that UNP is currently at too early a stage of development to order implementation.⁵² We are also concerned with the impact of

⁴⁷ Petition at 4; Maine Commission Reply at 10-11.

⁴⁸ See ALTS comments at 5; Connecticut Commission comments at 3.

⁴⁹ See *Numbering Resource Optimization Notice* at ¶¶ 83-90.

⁵⁰ NANC Report at § 6.1.1.

⁵¹ *Id.*

⁵² AT&T comments at 8 (stating that UNP is undeveloped and cannot be implemented in any meaningful way, but it may be appropriate to revisit the issue of whether a state-ordered UNP trial is appropriate following successful implementation of thousands-block pooling); Bell Atlantic comments at 3 (stating that implementing UNP with nationwide implementation of thousands-block pooling would only complicate and delay thousands-block pooling);

UNP on carriers' ability to control their own inventories. With UNP, because service providers will obtain telephone numbers from other service providers' inventories, the service provider donating numbers may face difficulty forecasting future numbering needs.⁵³ Moreover, we are concerned about the potential impact of UNP on emergency service systems (E-911). The NANC Report indicates that many companies' OSSs are designed to accommodate large inventories of telephone numbers, linking each street address to an NPA/NXX combination. If UNP leads to significant number porting, this mapping logic becomes quite difficult to support.⁵⁴ We are also concerned with UNP's potential impact on companies' switching systems. UNP may cause problems with switches which can only accept a limited number of NXX codes, as number inventories will be increasingly composed of random telephone numbers from many different NXX codes.⁵⁵ In addition, given our current focus on developing a national thousands-block pooling protocol in the near term, we do not wish to divert carrier resources to a measure such as UNP, which may entail substantial implementation costs.⁵⁶ For these reasons, we decline to grant the Maine Commission authority to implement interim UNP. Our determination not to grant the Maine Commission authority to order interim UNP does not preclude carriers from voluntarily engaging in UNP or code sharing if feasible.⁵⁷

26. *Thousands-block number pooling.* The Maine Commission requests authority to order the implementation of thousands-block pooling in Maine if the FCC does not issue an order requiring number pooling at a national level by December 31, 1999.⁵⁸ This Commission tentatively concluded that thousands-block pooling is an important numbering resource

SBC comments at 4 (stating that several major technical and regulatory issues would have to be resolved before UNP can be permitted); USTA comments at 5 (stating that implementing UNP anywhere would divert essential industry resources from the resolution of issues associated with thousands-block number pooling). *But see* MCI WorldCom comments at 7-8; Mid-Maine Communications comments at 3.

⁵³ NANC Report at § 6.6.2. *See also* SBC comments at 4; PCIA comments at 9.

⁵⁴ NANC Report at § 6.6.3.

⁵⁵ *Id.* at § 6.6.4.1.

⁵⁶ AT&T comments at 2; USTA comments at 5.

⁵⁷ *See supra* ¶ 16.

⁵⁸ Historically, network routing mechanisms are based upon the understanding that geographic numbers are assigned on an NXX code basis and associated with a specific switch, and, correspondingly, that the network address to which the call must be routed is embedded in the first six digits (NPA-NXX) of the called number. Thousands-block number pooling allows service providers in a given area to receive numbers in blocks of 1,000 by breaking the association between the (NPA-NXX) and the service provider to whom the call is routed. Through number pooling, participating carriers can effectively share numbering resources from NXX codes rather than receiving and having to use an entire NXX code at a time. *Numbering Resource Optimization Notice* at ¶ 130.

optimization strategy, essential to extending the life of the North American Numbering Plan.⁵⁹

27. The implementation of thousands-block pooling requires local number portability (LNP) capability. Because Maine does not contain one of the top 100 Metropolitan Statistical Areas (MSAs),⁶⁰ carriers operating in that state are not required to implement LNP until they receive a customer request for this service.⁶¹ The Maine Commission, however, informs us that Bell Atlantic, which is Maine's largest ILEC and provides service to 85% of the access lines in that state, and all five CLECs currently certified to provide non-dedicated, facilities-based service in Maine are LNP capable.⁶² In light of the fact that a substantial number of wireline users of numbering resources have achieved LNP capability, we conclude that thousands-block pooling is technically feasible in Maine.

28. Commenters representing incumbent local exchange carriers oppose permitting state utility commissions to order thousands-block pooling trials, mainly on the basis that multiple, inconsistent trials would pose an administrative burden to carriers that are present in the various states.⁶³ Several wireless carriers have also voiced their opposition to thousands-block pooling trials based on the premise that such trials would require the implementation of LNP.⁶⁴ Some state utility commissions have voiced their support for thousands-block pooling trials as a means to allocate numbers more efficiently and ensure that carriers are given greater access to numbering resources.⁶⁵

⁵⁹ *Id.* at ¶ 138.

⁶⁰ MSAs are geographic areas designated by the Bureau of Census for purposes of collecting and analyzing data. The boundaries of MSAs are defined using statistics that are widely recognized as indications of metropolitan character. See Policy and Rules Concerning Rates for Dominant Carriers, *Memorandum Opinion and Order*, CC Docket No. 87-313, FCC 97-168 (rel. May 30, 1997) at 17 n.26. When implementing LNP, the Commission established a phased implementation schedule based on MSAs. Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, RM 8535, 11 FCC Rcd 8352, 8394-95, ¶ 81 (1996).

⁶¹ See 47 C.F.R. § 52.23(c). When implementing LNP, the Commission established a phased implementation schedule based on MSAs. Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, RM 8535, 11 FCC Rcd 8352, 8394-95, ¶ 81 (1996).

⁶² Letter from Trina M. Bragdon, Maine Commission, to Magalie Roman Salas, FCC, dated September 7, 1999. The Maine Commission also states that, because the remaining 23 ILECs are independent telephone companies which operate in rural areas, they are exempt from the interconnection requirements under section 251 of the Act. *Id.*

⁶³ See USTA comments at 7.

⁶⁴ See CTIA comments at 5; PCIA comments at 8-9.

⁶⁵ See Connecticut Commission comments at 4; Massachusetts Commission comments at 3.

29. We have been concerned that the existence of multiple pooling trials in a state or region may strain carriers' Service Control Points (SCPs),⁶⁶ which could affect the ability of carriers' networks to perform LNP and pooling functions. We note, however, that the volume of ported numbers is significantly lower than previously anticipated.⁶⁷

30. Although we remain concerned about the potential strain which multiple thousands-block pooling trials in an MSA, state or region may have on the functioning of the public switched telephone network, we nonetheless believe this relief is appropriate given the strain on Maine's numbering resources. Furthermore, since the release of the *Pennsylvania Numbering Order*, the telecommunications industry has arrived at detailed guidelines governing the technical and administrative functioning of thousands-block number pooling. In the *Pennsylvania Numbering Order*, we stated that upon the establishment of uniform, national standards for pooling, we may determine that it is appropriate to delegate to state commissions the additional authority to implement and enforce those standards.⁶⁸ We therefore grant authority to the Maine Commission to conduct a mandatory thousands-block number pooling trial in Maine. We agree with the concern raised by many wireline commenters, however, that inconsistent pooling trials could pose a burden to carriers. To ameliorate this concern, we direct the Maine Commission to conduct its pooling trial in accordance with industry-adopted thousands-block pooling guidelines.⁶⁹ Where the Maine Commission determines that changes, modifications, or departures from the guidelines are desirable, we direct the Maine Commission to consult with the industry prior to implementing such changes. Although we will not dictate the manner in which the Maine Commission should consult with industry, the Maine Commission should, at a minimum, seek input from the industry regarding the implications of any proposed changes to the guidelines so that the Maine Commission may be able to weigh the industry's concerns in its decision-making process.

⁶⁶ A Service Control Point (SCP) is a database in the public switched network which contains information and call processing instructions needed to process and complete a telephone call. The network switches access an SCP to obtain such information. Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, 11 FCC Rcd 8352, 8402 n.288 (1996).

⁶⁷ A projection by the Local Number Portability Administrator, Lockheed Martin IMS, and all seven LLCs projected that over a two-year period 634,556 numbers would be ported during 1998 and 2,658,669 numbers would be ported during 1999 for a single region. Since there are seven LLCs, the total amount of ported numbers nationwide is projected to be 23.05 million. LNPA Industry Demand Model, Exhibit N-1, at 5 (1998). The actual amount of total numbers ported as of May 1999 was only 1,789,369. See *Local Competition: August 1999*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission.

⁶⁸ *Id.* at 19028, ¶ 28.

⁶⁹ Thousand Block (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. Jan. 27, 1999) (Thousand Block Pooling Guidelines). This document is available at <<http://www.atis.org/atis/clc/inc/incdocs.htm>>.

31. We grant this authority subject to the conditions and safeguards similar to those enumerated in the *Pennsylvania Numbering Order* that granted such authority to Illinois.⁷⁰ In the event the NPA in which the Maine Commission may implement a pooling trial goes into jeopardy, the Maine Commission must take all necessary steps to prepare an NPA relief plan that may be adopted by the Maine Commission in the event that numbering resources in the NPA at issue are in imminent danger of being exhausted.⁷¹ This criterion is not intended to require the Maine Commission to implement an NPA relief plan prior to requiring thousands-block number pooling in Maine. Rather, we require only that the Maine Commission be prepared to implement a “back-up” NPA relief plan prior to the exhaustion of numbering resources in the NPA at issue.⁷² Consumers should never be in the position of being unable to exercise their choice of carrier because that carrier does not have access to numbering resources. This criterion attempts to ensure that consumers continue to retain a choice of telecommunications providers in the event that the pooling trial or trials do not stave off the need for area code relief.

32. Only those carriers that have implemented permanent LNP shall be subject to the trial.⁷³ At the present time, we do not grant the Maine Commission the authority to require a carrier to acquire LNP solely for the purpose of being able to participate in a thousands-block pooling trial. Carriers are only required to implement LNP if requested by another carrier subject to the requirements established by this Commission.⁷⁴ Within NPAs that are subject to the pooling trial, non-LNP capable carriers shall have the same access to numbering resources after

⁷⁰ *Pennsylvania Numbering Order* at 19029-30, ¶ 30.

⁷¹ In Illinois, the Illinois Commission recognized a “back-up plan” was necessary because the pooling solution had not been completely developed or tested. Thus, it ordered that an all-services overlay would supersede the pooling trial in the event that the NXXs in the 847 NPA were depleted. *Id.*

⁷² See Petition by Citizens Utility Board to Implement a form of telephone number conservation known as number pooling within the 312, 773, 847, 630, and 708 area codes and Petition by Illinois Bell Telephone Company for Approval of an NPA Relief Plan for the 847 NPA, Docket Nos. 97-0192 and 97-0211 (Consol.), *Order* (May 11, 1998) (establishing an area code overlay as a back-up plan concurrently with ordering thousands-block pooling in the 847 NPA). Although the Illinois Commission had an NPA relief plan in place in the 847 NPA to relieve what it had forecast to be imminent exhaust, through number conservation measures, including thousands-block pooling, it has forestalled the need for area code relief. See Petition of the Illinois Commerce Commission for Expedited Temporary Waiver of 47 C.F.R. § 52.19(c)(3)(ii) at 2-3 (filed August 11, 1999).

⁷³ Wireless carriers are not required to implement LNP until November 2002, or until this Commission releases an order establishing requirements for wireless carriers’ participation in number pooling in the *Numbering Resource Optimization* docket. See Cellular Telecommunications Industry Association’s Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, *Memorandum Opinion and Order*, WT Docket No. 98-229 and CC Docket No. 95-116, 14 FCC Rcd. 3092, 3116 ¶ 48 (1999).

⁷⁴ See 47 C.F.R. § 52.23(b)-(c).

pooling is implemented that they had prior to the implementation of a pooling regime, *i.e.*, non-LNP capable carriers shall continue to be able to obtain full NXX codes. We recognize that conditioning the Maine Commission's authority to implement a mandatory thousands-block pooling trial on exemption of non-LNP capable carriers from participation in the trial will create a disparity in the way different types of service providers obtain access to numbering resources, in tension with the criteria set forth above.⁷⁵ In order to ensure that consumers may continue to obtain service from non-LNP capable carriers of their choosing, however, we find that for the purposes of this interim delegation, it is necessary to safeguard these carriers' access to numbering resources, while they lack the technical capability to participate in pooling. The *Numbering Resource Optimization Notice* raises a number of issues relating to non-LNP capable carriers' participation in pooling, and we believe these issues are best addressed in the larger rulemaking context. In the meantime, we suggest to the Maine Commission that it urge the non-LNP capable carriers to use various other numbering resource optimization strategies such as those discussed in the *Numbering Resource Optimization Notice* to improve the efficiency of numbering resources assigned to such carriers.

33. We also suggest to the Maine Commission that it allow for exceptions to participating in the pooling trial, if doing so would prove prohibitively expensive to a particular carrier. For example, certain switch types may not be able to accommodate thousands-block number pooling.⁷⁶ Finally, as we stated in the *Numbering Resource Optimization Notice*, we encourage the Maine Commission, to the extent it has not already done so, to consider consolidating rate centers prior to implementing pooling.⁷⁷ Fewer, larger pools logically increase the effectiveness of thousands-block pooling.⁷⁸

34. We direct the Maine Commission to ensure that an adequate transition time is provided to carriers to implement pooling in their switches and administrative systems. Thousands-block pooling requires carriers to alter significantly the manner in which they account for their inventory of telephone numbers, including changing their Operations Support Systems (OSSs) and retraining their staffs.⁷⁹ In addition, we also urge the Maine Commission not to require carriers to engage in processes related to thousands-block pooling which might divert critical resources away from preparations related to the Year 2000 rollover.⁸⁰

⁷⁵ See *supra* ¶ 8.

⁷⁶ See *Numbering Resource Optimization Notice* at ¶ 149.

⁷⁷ See *id.* at ¶ 151.

⁷⁸ See *id.*

⁷⁹ See Letter from Todd D. Daubert, Counsel for Winstar, to Magalie R. Salas, Secretary, FCC, dated July 28, 1999.

⁸⁰ See National Association of Regulatory Utility Commissioners (NARUC), "Resolution Urging State

35. We further require that the Maine Commission determine the method to recover the costs of the pooling trials.⁸¹ The Maine Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered.⁸² The Commission has tentatively concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling.⁸³ We conclude that inasmuch as we are hereby delegating numbering administration authority to the Maine Commission, the Maine Commission must abide by the same statute applicable to this Commission, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner.⁸⁴ We note that the *Telephone Number Portability* proceeding found that section 251(e)(2) requires all carriers to bear the costs of number portability on a competitively neutral basis, and, thus, established a cost recovery mechanism that assesses even carriers that cannot or have not implemented LNP to date.⁸⁵ The Maine Commission may consider the recently released *Telephone Number Portability* Order for guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral:

First, “a ‘competitively neutral’ cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber.” Second, the cost recovery

Commissions to Consider Honoring Utility Requests to Defer Deadlines Because of Y2K Considerations,” adopted July 23, 1999. See also Memorandum from Jacob J. Lew, Director, Chief Information Officers Council, to the heads of executive Florida Commissions and agencies, dated May 14, 1999 (requesting that federal agencies refrain from establishing requirements that would have an adverse effect on the Year 2000 readiness of regulated entities).

⁸¹ The *Numbering Resource Optimization Notice* tentatively concluded that thousands-block number pooling administration involved three categories of costs: (1) shared industry costs, which include the cost to fund the pooling administrator; (2) carrier-specific costs directly related to thousands-block pooling implementation, including, for example, costs directly related to updating carriers’ LSMS to support pooling; and (3) carrier-specific costs not directly relating to thousands-block pooling implementation. *Numbering Resource Optimization Notice* at ¶¶ 203-09.

⁸² See *id.* at ¶ 197.

⁸³ *Id.* at ¶ 193.

⁸⁴ 47 U.S.C. § 251(e)(2).

⁸⁵ Telephone Number Portability, *Third Report and Order*, 13 FCC Rcd 11701, 11759 (1998). The Commission also found that it was equitable for all telecommunications carriers, even those without end-user revenues and those not directly involved in number portability, to contribute towards LNP costs because they will all benefit from number portability’s role in increasing local competition and ameliorating number exhaust concerns by making number pooling possible. *Id.*

mechanism “should not have a disparate effect on the ability of competing service providers to earn normal returns on their investments.”⁸⁶

Consistent with our treatment of cost recovery in the *Telephone Number Portability* proceeding, we believe that even those carriers that cannot participate in pooling at this time will benefit from the more efficient use of numbering resources that pooling will facilitate. We also encourage the Maine Commission to consider the “road map” provided by the *Numbering Resource Optimization Notice* regarding cost recovery for thousands-block number pooling.⁸⁷

36. We reiterate that the authority we grant herein to the Maine Commission to undertake a thousands-block pooling trial is interim in nature, and is in no way intended to relieve the Maine Commission of its obligation to implement necessary area code relief in a timely fashion. Whatever decisions this Commission reaches with regard to thousands-block pooling administration and guidelines will supersede whatever systems the Maine Commission puts in place prior to enactment of those rules.

CONCLUSION

37. We recognize that area code changes can be expensive and confusing for consumers. The authority we have herein delegated to the Maine Commission, we hope, will provide it the tools it needs to address Maine's concerns about numbering exhaust. For example, the authority to require a carrier to demonstrate that it will have the necessary facilities to serve a specific rate center within six months of assignment of that code will ensure that carriers not obtain numbering resources until they are able to actually provide service. Also, the authority to establish carriers' fill rates allows the Maine Commission to address the demand side of the number assignment regime by requiring that carriers not request more numbering resources until they have used a certain percentage of those already in their inventory. Moreover, the authority to enforce and audit carrier compliance with existing number utilization reporting requirements will enable the Maine Commission to verify carrier compliance with the fill rates it seeks to establish. Finally, the authority to order a thousands-block pooling trial allows the Maine Commission to address inefficiencies on the supply side of the telephone number assignment regime by ordering that LNP-capable carriers receive smaller blocks of numbers than they now do.

⁸⁶ Telephone Number Portability, *Fourth Memorandum Opinion and Order on Reconsideration*, CC Docket No. 95-116, RM 8535, FCC 99-151, at ¶ 32 (rel. July 16, 1999) (citing Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8420-21 (1996)).

⁸⁷ *Numbering Resource Optimization Notice* at ¶¶ 193-210.

38. Pursuant to the conditions set forth above, we authorize the Maine Commission to reclaim unused and reserved NXX codes; set numbering allocation standards, including the establishment of a requirement to demonstrate facilities readiness and the setting of fill rates; enforce and audit carrier compliance with existing number utilization reporting requirements; and institute a thousands-block pooling trial. We deny the Petition insofar as it seeks authority for the Maine Commission to order unassigned number porting.

ORDERING CLAUSES

39. Accordingly, pursuant to sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251, and pursuant to sections 1.1 and 52.9(b) of the Commission's Rules, 47 C.F.R. §§ 1.1 and 52.9(b), IT IS ORDERED that the Maine Public Utilities Commission's Petition for Additional Authority to Implement Number Conservation Measures is GRANTED IN PART and DENIED IN PART to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary